IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2891 of 2007
Date of Decision: 26.2.2007

Bijender Singh

Petitioner

versus

Presiding Officer, Industrial Tribunal-cum-Labour Court and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE VINOD K. SHARMA

Present: Shri B.R.Vohra, , Advocate for the petitioner

Jasbir Singh, J. (Oral)

This writ petition has been filed with a prayer to quash award dated 1.8.2006, passed by the Industrial Tribunal-cum-Labour Court, Rohtak, vide which, prayer of the petitioner, to reinstate him in service, was declined.

It is an admitted fact that the petitioner was working as a Conductor with the respondent-management. On a particular date, when his bus was checked, as many as 30 passengers were found travelling without any ticket. He was charge sheeted. Departmental enquiry ended against him and his service was ordered to be terminated. He raised a dispute, which was referred to the Tribunal, referred to above, for adjudication. The Tribunal, after taking note of pleadings of the parties, framed the following issues:-

"1.As per terms of reference.

2.Whether fair and proper enquiry was conducted by the mgt., OPM

3.Whether the workman has no locus standi or cause of action as alleged?OPM"

Issue No.2 was treated as a preliminary issue and after recording evidence, it was decided in favour of the workman on 18.11.2002. Thereafter, both the parties were given an opportunity to prove their case and ultimately, claim of the petitioner was rejected. The Tribunal below, after taking note of evidence on record, has observed thus:-

> "*10.There is merit in the contention of the learned ADA. Taking into consideration that the bus of the workman was checked by the checking staff including MW-1 and MW-3 on 11.9.1991, whereas his bus was on the route from Bhiwani to Khareti and the bus was checked at Sanjarwas which is at distance of about 25 K.M. from Bhiwani. 8 passengers were without tickets from Bhiwani to Achina and the workman had charged fare from them Rs.44/-. Similarly 8 passengers were without tickets from Bhiwani to Ranilla and the workman had charged fare from them Rs.36/-. 9 passengers were without tickets who were travelling from Bhiwani to Sanjarwas and the workman had charged fare from them Rs.31.50 and 5 passengers were found without tickets who were travelling from Sawar to Sanjarwas and the workman had charged fare from them Rs.5/- and in this way the workman had mis appropriated the Govt. money to the tune of Rs.116.50/-. If the version of the workman is taken as gospel truth that there were 25-30 passengers in the bus then out of them 30 passengers were travelling without tickets from whom he had charged fare and failed to issue ticket any of them. No doubt the checking staff failed to record the statement of any of the passengers but it is crystal clear that the workman failed to handover*

upunched tickets, way bill and he also mis behaved with the checking staff. He had also torn the way bill and later on the pieces of the same was collected by the checking staff and the photo copy of the same is Ex.M-2 and the report of the checking staff is Ex.M-1 and thereafter he was charge sheeted under rule 7 of Punishment and Appeal Rules but the workman failed to file reply of the same. The Enquiry Officer was appointed and he participated in the enquiry and then show cause notice proposing the punishment was given to him and he failed to file reply of the same. He also failed to appear for personal hearing and it show the adamant conduct of the workman. Since mis-appropriation of Govt. money is serious offence. Therefore, the authorities on which reliance is being placed by the AR of the workman are no help to him because in these authorities the workman was in the process of issuing tickets and in the second authority the service of the workman was terminated taking into consideration his past conduct. But in the present case MW-1 to MW-3 have corroborated the contents of Ex.M-1 in all material particulars. Taking into consideration the seriousness of the allegations against the workman it is crystal clear that the order of his removal which has been passed by the competent authority is an appropriate one and there is no legal flow in it. Therefore, I decide this issue against the workman and in favour of the mgt."

We feel that the finding given is perfectly justified. It has come on record that when bus on which, the petitioner was employed, was checked, as many as 30 passengers, were found travelling without tickets.

He also mis-behaved with the checking staff. It is a case where public money was embezzled by the petitioner and the management has lost confidence in him. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

February 26, 2007 **(Vinod K.Sharma)**
gk **Judge**